

ORDINANCE NO. 09-76

ORDINANCE GRANTING A CONDITIONAL USE PERMIT (CUP) TO ALLOW A HOUSE OF WORSHIP PURSUANT TO HIALEAH CODE §98-181(2)f, AND GRANTING A VARIANCE PERMIT TO ALLOW 12 PARKING SPACES, WHERE AT LEAST 18 ARE REQUIRED, AND TO ALLOW A HANDICAP PARKING SPACE IN THE FRONT SETBACK WHERE NO PARKING IN THE FRONT SETBACKS IS ALLOWED, CONTRA TO HIALEAH CODE §§ 98-2189(4)I AND 98-881(1)2., ON PROPERTY ZONED CR (COMMERCIAL RESIDENTIAL DISTRICT). **PROPERTY LOCATED AT 80 EAST 9 STREET, HIALEAH, FLORIDA.** REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Board at its meeting of August 26, 2009, recommended approval of this ordinance; and

WHEREAS, the petitioner proffered a declaration of restrictive covenants limiting the hours of worship to Wednesday evenings, to begin after 7:00 p.m. and ending no later than 9:00 p.m., and Sundays, to begin after 10:00 a.m. and ending no later than 3:00 p.m., to which the City accepts.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

Section 1: The foregoing facts and recitations contained in the preamble to this ordinance is hereby adopted and incorporated as if fully set forth herein.

Section 2: The below-described property is hereby granted a conditional use permit (CUP) to allow a house of worship on property zoned CR (Commercial

Residential District) and a variance permit is hereby granted to allow 12 parking spaces, where 18 are required, and to allow a handicap parking space in the front setback where no parking in the front setbacks is allowed, contra to Hialeah Code §§ 98-289(4)i and 98-881(1)2., which provide in pertinent part: “*Places of worship*. One parking space for each 40 square feet of gross floor area of the main auditorium (sanctuary), chapels and other rooms used for general assembly and recreation, and classrooms.” and “No parking in front setbacks is allowed.”, respectively. The property is located at 80 East 8 Street, Hialeah, Miami-Dade County, Florida and legally described as follows:

THE EAST 16.66 FEET OF LOT 9 AND ALL OF LOT 10, IN BLOCK 36, OF TOWN OF HIALEAH, ACORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 5, AT PAGE 77, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

Section 3: Repeal of Ordinances in Conflict.

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 4: Penalties.

Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished by a civil penalty not to exceed \$500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the city may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

Section 5: Additional Penalties upon Violation of Conditions of Use.

Any change of the terms and conditions of the use identified in this ordinance and as provided in the Declaration of Restrictive Covenants, if submitted, will cause a revocation of the Special Use Permit and of the city occupational license issued in connection herewith and the property shall revert to the zoning classification without the benefit of the special use.

Section 6: Severability Clause.

If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

Section 7: Effective Date.

This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.


PASSED and ADOPTED this 22nd day of September, 2009.

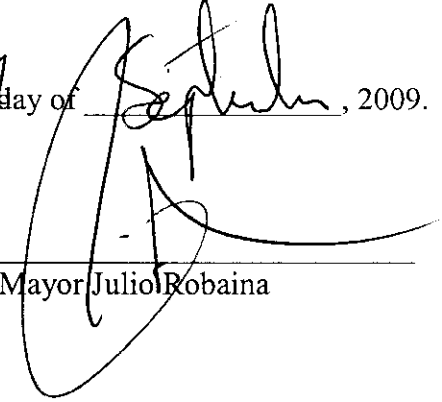
THE FOREGOING ORDINANCE
OF THE CITY OF HIALEAH WAS
PUBLISHED IN ACCORDANCE
WITH THE PROVISIONS OF
FLORIDA STATUTE 166.041
PRIOR TO FINAL READING.


Carlos Hernandez
Council President

Attest:

Approved on this 29 day of September, 2009.


Rafael E. Granado, City Clerk


Mayor Julio Robaina

Approved as to form and legal sufficiency:


William M. Grodnick, City Attorney

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Ordinance was adopted by a 6-0 vote with Councilmembers, Caragol, Casals-Muñoz, Cue, Gonzalez, Hernandez, Yedra voting "Yes" and Councilmember Garcia-Martinez absent.

Prepared by: City of Hialeah
Planning and Zoning Division
501 Palm Avenue, Second Floor
Hialeah, Florida 33010



CFN 2009R0793051
DR Bk 27070 Pgs 0712 - 717; (6pgs)
RECORDED 11/03/2009 11:46:46
HARVEY RUVIN, CLERK OF COURT
MIAMI-DADE COUNTY, FLORIDA

**DECLARATIONS OF RESTRICTIONS
(CORPORATE)**

This Declaration of Restrictions executed this _____ day of
July _____, 2009 by John Jeffrey Mcardle, president of Iglesia Biblica Bautista
("Owner(s)"). de Hialeah, Inc.

WITNESSETH:

WHEREAS, the undersigned, Iglesia Biblica Bautista De Hialeah Inc., a
Florida corporation, is the fee simple owner of the following described property
located in the City of Hialeah, Florida:

see reverse

Property address: 80 E 9 Street, Hialeah, FL 33010

NOW, THEREFORE, for good and valuable consideration, the undersigned owner(s)
hereby covenant(s) and agree(s) as follows:

1. The use of the property shall be limited as follows:

Church operations will be conducted MOnday through Saturdays after 7:00 PM
and all day on Sundays.

2. This covenant is intended and shall constitute a restrictive covenant concerning
the use, enjoyment, and title to the above-described property and shall constitute a covenant
running with the land and may be recorded in the Public Records of Miami-Dade County,
Florida. This covenant shall remain in full force and effect and shall be binding upon the
undersigned, its (their) heirs, successors and assigns until such time as the same is modified,
amended or released and may only be modified, amended or released by a written instrument
executed by the then owner having fee simple title to the property affected or to be affected by
such modification, amendment, or release; provided, however, the same is also approved by the
City Council and the Mayor of the City of Hialeah, or its successors, by resolution, upon
advertised notice, or by ordinance if the covenant is adopted by ordinance or as otherwise
provided in the Hialeah Charter.

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3. The use of the property shall be in compliance with all ordinances, regulations, codes and charter of the City of Hialeah and applicable state and federal law and laws and regulations of Miami-Dade County, Florida.

IN WITNESS WHEREOF, We have hereunto set our hands and seals at Hialeah FL this 20th day of July, 2009.
(Location)

Signed, sealed and delivered in the presence of:

Attest: William Lisenbee
Corporate Secretary
William Lisenbee
Typed/Printed Name

CORPORATE NAME: Iglesia Biblica Bautista De Hialeah

By: [Signature]
President:
John Jeffrey Mcardle
Typed/Printed Name

[Signature]
Witness
Typed/Printed Name Ismael Irizarry
Ismael Irizarry
Witness
Typed/Printed Name Ismael Irizarry

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me on this 20th day of July by John Jeffrey Mcardle, as President, and William Lisenbee, as Secretary, of
(Name of Officer or Agent) (Name of Secretary)
Iglesia Biblica Bautista De Hialeah, Inc.
_____, a Florida corporation, on behalf of the corporation.
(Name of Corporation) (State of Incorporation)

They are personally known to me or have produced the following _____ as identification and did (did not) take an oath and attested to the truth and accuracy of the representations contained herein.

[Signature]
Signature of Notary Public State of Florida
Miguel Turbay
Name of Notary Miguel Turbay
Commission # DD730752
Expires JAN 21 2012
Commission Notary Bonded Thru Atlantic Bonding Co., Inc.

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FRONT SETBACK WHERE NO
PARKING IN THE FRONT SETBACKS IS
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ON PROPERTY ZONED CR
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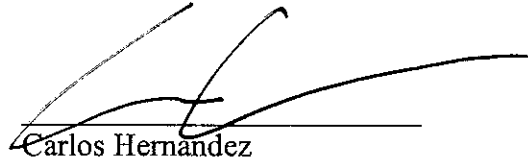
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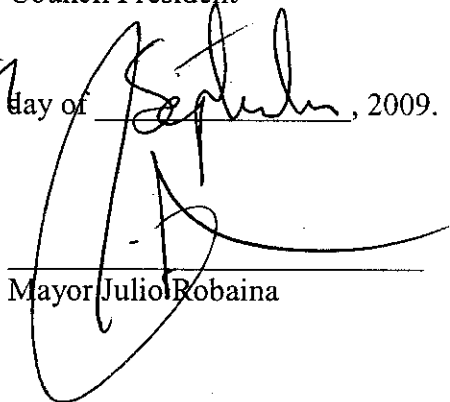
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